

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office on July 23, 2001.

Melissa Carton
Melissa Carton



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

Reinhard BECHER *et al.*

Serial No.: 09/744,594

Filing Date: January 26, 2001

For: TRANSMISSION OF DIALOGUE
INFORMATION FROM A
TELECOMMUNICATIONS NETWORK
TO A SUBSCRIBER TERMINAL

Examiner: Not yet assigned

Group Art Unit: Not yet assigned

RECEIVED
02 NOV 2001
Legal Staff
International Division

**REQUEST FOR RECONSIDERATION OF DECISION ON REQUEST FOR
RE-MAILING OF ACTION AND REQUEST FOR REFUND**

Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the Decision on Request for Re-Mailing of Action and Request for Refund dated September 18, 2001, Applicants respectfully request that the decision be reconsidered based on the following information:

The above-mentioned application was filed with the U.S. Patent and Trademark Office on January 26, 2001 without an executed Declaration. A telephone call was made to the PCT Branch (703-305-3257) on July 23, 2001 to find out the status of this application. The undersigned was then informed that a Notification of Missing Requirements was mailed in on February 12, 2001. A search of the file jacket and docket records indicated that the Notification of Missing Requirements was not received.

Applicants submitted a Response to the Notification of Missing Requirements on August 10, 2001 based on what the PCT Branch noted as missing. Applicants did not have the actual notice to respond to, nor was a copy of such included in the response.

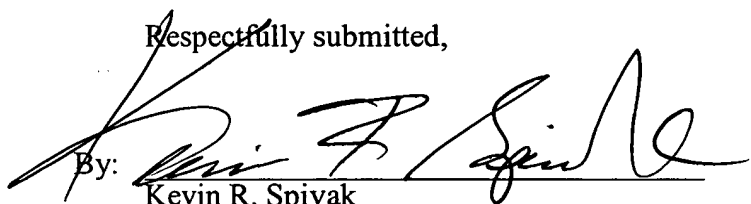
To this date, a Notification of Missing Requirements has not been received. Pursuant to the requirement outlined in the Decision, enclosed herewith is a copy of the office docket for March 12, 2001 (i.e., the date a response to the Missing Requirements would have been due if it were received). All requirements should now be satisfied.

Under these circumstances, therefore, it is respectfully requested that the Notification of Missing Requirements dated February 12, 2001, be re-mailed and a new shortened statutory period for response be set. Additionally, upon granting of the Request for Re-Mailing, Applicants respectfully request that the Request for Refund also be granted.

In the event that the Patent and Trademark Office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 449122001300. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,

Dated: October 18, 2001

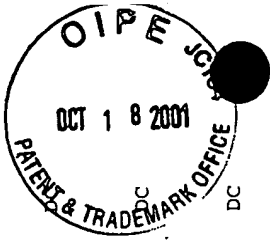
By: 
Kevin R. Spivak
Registration No. 43,148

Morrison & Foerster LLP
2000 Pennsylvania Avenue, N.W.
Washington, D.C. 20006-1888
Telephone: (202) 887-6924
Facsimile: (202) 263-8396

DAILY BILLING ATTORNEY DOCKET
MORRISON & FOERSTER PATENT DEPT.
Prepared on: 3/12/2001

WASHINGTON D.C. BILLING ATTORNEY DOCKET FOR: Barry E. Bretschneider

Action Due	Deadline	Action Description	Docket No.	Ctry	App No	App Date	Bill	Work	Asst	Foreign Offi
3/10/2001	4/10/2001	Ntc Appeal Due-2 Ext	16385-20120.00	US	08/867,490	6/2/1997	BE4	BE4		DC
3/12/2001		Status Check	20455-20073.30	US	90/005,224	1/20/1999	BE4	BE4		DC
		REGARDING REXAM CERTIFICATE								
3/12/2001	6/12/2001	Ntc Appeal Due	32577-20102.00	US	09/320,892	5/27/1999	BE4	TSB1		DC
3/12/2001	6/12/2001	Frej Resp Due	32577-20102.00	US	09/320,892	5/27/1999	BE4	TSB1		DC
3/12/2001		Status Office Action	32577-20162.00	US	09/536,289	3/27/2000	BE4	BE4		DC
3/12/2001		2nd Maint Fee Due	35836-20075.00	US	08/000,847	1/5/1993	BE4	BE4		DC
3/12/2001		2nd Maint Fee Due	35836-20086.00	US	08/000,848	1/5/1993	BE4	BE4		DC
3/12/2001		IDS - Extended	35836-20100.00	US	09/734,046	12/12/2000	BE4	BE4		DC
3/12/2001		Status Office Action	36084-20041.00	US	09/299,530	4/26/1999	BE4	BE4		DC
3/12/2001		From File 6-M Remnd	36084-20064.00	US	09/623,986	9/12/2000	BE4	BE4		DC
3/12/2001		IDS - Extended	36084-20064.00	US	09/623,986	9/12/2000	BE4	BE4		DC
3/12/2001	9/12/2001	Miss Parts Due-1 M	42499-20001.00	US	09/709,393	11/13/2000	BE4	KRS1		DC
3/12/2001		Priority Documnt Due	42499-20003.40	WO	PCT/US00/31129	11/13/2000	BE4	KRS1		DC



See Nancy's Docket

Wayne

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Office Docket

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See Kevin's Docket

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DAILY BILLING ATTORNEY DOCKET
MORRISON & FOERSTER PATENT DEPT.

Prepared on: 3/12/2001

WASHINGTON D.C. BILLING ATTORNEY DOCKET FOR: Barry E. Bretschneider

Action Due	Deadline	Action Description	Docket No.	Ctry	App No	App Date	Bill	Work	Asst	Foreign OFFI
3/12/2001		Status Appln File Da	49158-20002.00	US			BBB4	KRS1	KRS1	DC
				ICLIPS MANAGEMENT - MY ICLIPS						
3/12/2001		Status Appln File Da	49158-20003.00	US			BBB4	KRS1	KRS1	DC
				DELIVERY - ICLIPS PLAYER						
3/12/2001		Status Appln File Da	49158-20004.00	US			BBB4	KRS1	KRS1	DC
				AD NETWORK - STREAMING AD AND COMBINATION STREAM/BANNER AD D						
3/12/2001		Status Appln File Da	49158-20005.00	US			BBB4	KRS1	KRS1	DC
				ICLIPS SYSTEM - IP2.0 + MY ICLIPS PLAYER + AD DELIVERY						

See

Karvin's

Docket



DAILY BILLING ATTORNEY DOCKET
MORRISON & FOERSTER PATENT DEPT.

Prepared on: 3/12/2001

WASHINGTON D.C. BILLING ATTORNEY DOCKET FOR: Richard D. Jordan

Action Due	Deadline	Action Description	Docket No.	Ctry	App No	App Date	Bill	Work	Asst	Foreign OFFI
3/11/2001	4/11/2001	Miss Parts Due-4 Ext	39368-20001.00	US	09/593,925	6/15/2000	RDJ2	PAM5		DC

SYSTEM AND METHOD FOR SEPARATING AND INTEGRATING MEDIA CONTE

3/11/2001	Status Appln File Da	45539-20005.00	US	A ROUTING PROTOCOL FOR GENERAL MOBILE AD HOC NETWORKS	RDJ2	PAM5	DC
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3/12/2001	Status Check	35797-20028.00	US	09/392,981	9/9/1999	RDJ2	JXB6	DC
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3/12/2001	Status Check	35797-20032.10	US	09/414,700	10/8/1999	RDJ2	PJD2	DC
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req. reconsideration filed 12/7/2000

3/12/2001	Miss Parts Due	44912-20017.00	US	09/743,215	1/8/2001	RDJ2	KRS1	DC
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OPTIMIZED COMMUNICATION SYSTEM FOR RADIO-ASSISTED TRAFFIC SE

3/12/2001	IDS Due	44912-20027.00	US	09/780,619	2/12/2001	RDJ2	KRS1	DC
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3/12/2001	IDS - Extended	45636-20005.00	US	09/758,229	1/12/2001	RDJ2	LEM2	DC
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POOLING MANAGER

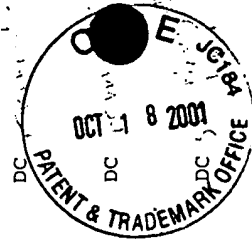
3/12/2001	IDS - Extended	45971-20001.00	US	09/758,356	1/12/2001	RDJ2	RDJ2	PA
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DUAL SIGNALING CHANNEL TELEPHONE SYSTEM

EXT FROM 2/12/2001

3/12/2001	IDS - Extended	47102-20001.00	US	09/676,979	10/2/2000	RDJ2	PJD2	DC
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BROKERING IN A MEMBERSHIP-DRIVEN TRANSACTION SYSTEM



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DAILY ATTORNEY DOCKET

MORRISON & FOERSTER PATENT DEPT.

3/12/2001

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WASHINGTON DC ATTORNEY DOCKET FOR: Kevin R. Spivak

Action Due	Deadline	Action Description	Docket No.	Ctry	App No	App Date	Bill	Work	Asst	Foreign OFFI
3/12/2001	9/12/2001	Miss Parts Due-1 M	42499-20001.00	US	09/709,393	11/13/2000	BEB4	KRS1		DC

*preparing IDS
for filing today*

3/12/2001		Priority Document Due	42499-20003.40	WO	PCT/US00/31129	11/13/2000	BEB4	KRS1		DC
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SYSTEM, METHOD AND RECORDABLE MEDIUM FOR UPLOADING DOCUMENTS

3/12/2001	8/12/2001	Miss Parts Due	44912-20017.00	US	09/743,215	1/8/2001	RDJ2	KRS1		DC
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holding foreign
OPTIMIZED COMMUNICATION SYSTEM FOR RADIO-ASSISTED TRAFFIC SE
Waiting for Assign. & Decl. From client, faxed reminder

3/12/2001		IDS Due	44912-20027.00	US	09/780,619	2/12/2001	RDJ2	KRS1		DC
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received assign. & Decl. 3/9

3/12/2001	3/13/2001	Crt Defects Resp Due	45904-20001.40	WO	PCT/US01/01879	1/22/2001	RHL1	KRS1		DC
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POA, drawings

SYSTEM AND METHOD TO BRING MERCHANTS ON-LINE

3/12/2001		IDS - Extended	45904-20002.00	US	09/758,357	1/12/2001	RHL1	KRS1		DC
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SYSTEM AND METHOD OF SEARCHING OFF-LINE BY GATHERING INFORMA

bill 1mo.

3/12/2001		Status Appln File Da	49158-20002.00	US			BEB4	KRS1		DC
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curry
ICLIPS MANAGEMENT - MY ICLIPS

2 weeks

PC

WASHINGTON DC ATTORNEY DOCKET FOR: Kevin R. Spivak

[illegible]

3/12/2001	Status Appln File Da	49158-20003.00	US	BEB4	KRS1	KRS1	DC
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DELIVERY - ICLIPS PLAYER

3/12/2001	Status Appln File Da	49158-20004.00	US	BEB4	KRS1	DC
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AD NETWORK - STREAMING AD AND COMBINATION STREAM/BANNER AD D

3/12/2001	Status	Appln	File	Da	49158-20005.00	US	BEB4	KRS1	KRS1	DC
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ICLIPS SYSTEM - IP2.0 + MY ICLIPS PLAYER + AD DELIVERY

WASHINGTON DC ATTORNEY DOCKET FOR: Lisa E. Marks

DAILY ATTORNEY DOCKET
MORRISON & FORSTER PATENT DEPT.
3/12/2001

Action Due	Deadline	Action Description	Docket No.	Ctry	App No	App Date	Bill	Work	Asst	Foreign OFFI
3/12/2001		IDS - Extended	45636-20005.00	US	09/758,229	1/12/2001	RDJ2	LEM2	LEM2	DC

POOLING MANAGER

No IDS
materials

DAILY ATTORNEY DOCKET
MORRISON & FOERSTER PATENT DEPT.
3/12/2001

WASHINGTON DC ATTORNEY DOCKET FOR: Joseph Barrera

Action Due	Deadline	Action Description	Docket No.	Ctry	App No	App Date	Bill	Work	Asst	Foreign OFFI
3/12/2001		Status Check	35797-20028.00	US	09/392,981	9/9/1999	RDJ2	JXB6		DC

PAY ISSUE METHOD OF EXTENDING SAPO CATALYST LIFE AND THE USE THEREOF

EXHIBIT to
PAY

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DAILY ATTORNEY DOCKET
MORRISON & FOERSTER PATENT DEPT.
3/12/2001

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WASHINGTON DC ATTORNEY DOCKET FOR: Raj S. Dave'

Action Due	Deadline	Action Description	Docket No.	Ctry	App No	App Date	Bill	Work	Asst	Foreign OFFI
3/11/2001		Status Office Action	30060-20017.00	US	09/546,566	4/11/2000	KHM1	RSD2		DC

MOVED TO 4/11

BIODEGRADABLE AND THERMOSENSITIVE POLYPHOSPHAZENES AND THEIR

Nancy

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DAILY ATTORNEY DOCKET
MORRISON & FOERSTER PATENT DEPT.
3/12/2001

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WASHINGTON DC ATTORNEY DOCKET FOR: Tyler S. Brown

Action Due	Deadline	Action Description	Docket No.	Ctry	App No	App Date	Bill	Work	Asst	Foreign Offi
3/12/2001	6/12/2001	Ntc Appeal Due	32577-20102.00	US	09/320,892	5/27/1999	BEB4	TSB1		DC

IMAGE SHAKE CORRECTION DEVICE FOR OPTICAL APPARATUS AND OPTI

10/12 TO 4/12

3/12/2001	6/12/2001	Frej Resp Due	32577-20102.00	US	09/320,892	5/27/1999	BEB4	TSB1		DC
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IMAGE SHAKE CORRECTION DEVICE FOR OPTICAL APPARATUS AND OPTI

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11/15
9/25/01



SEP 18 2001
UNITED STATES PATENT AND TRADEMARK OFFICE

SEP 24 2001

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Kevin R. Spivak
MORRISON & FOERSTER
2000 Pennsylvania Avenue, NW
Washington, DC 20006-1888

In re Application of :
BECHER, Reinhard, et al. :
U.S. Application No.: 09/744,594 :
PCT No.: PCT/DE99/02346 :
International Filing Date: 29 July 1999 :
Priority Date: 29 July 1998 :
Attorney's Docket No.: 449122001300 :
For: TRANSMISSION OF DIALOGUE :
INFORMATION FROM A :
TELECOMMUNICATIONS NETWORK TO A :
SUBSCRIBER TERMINAL :

DECISION ON
REQUEST FOR RE-MAILING 272191
OF ACTION AND
REQUEST FOR REFUND 274900

This decision is issued in response to the "Request For Re-Mailing" and "Request For Refund" filed on 10 August 2001. No petition fee is required.

BACKGROUND

On 29 July 1999, applicants filed international application PCT/DE99/02346 which claimed a priority date of 29 July 1998 and which designated the United States. On 10 February 2000, a copy of the international application was transmitted to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB").

A Demand was filed with the International Preliminary Examining Authority electing the United States prior to the expiration of 19 months from the priority date. As a result, the deadline for payment of the basic national fee was 30 months from the priority date, i.e., 29 January 2001.

On 26 January 2001, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, among other materials, payment of the basic national fee and a translation of the international application into English.

On 12 February 2001, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and a surcharge for providing the oath or declaration later than 30 months from the priority date were required. The Notification also informed applicants that the failure to submit these materials within one month of the date of the Notification would result in abandonment of the application.

DOCKETED
Reg Recons. 10/18/01
LD 11/18/01

On 23 July 2001, applicants filed the "Request For Re-Mailing Of Action" considered herein. This request asserts that applicants never received the Notification Of Missing Requirements mailed 12 February 2001.

On 10 August 2001, applicants filed a request for a four month extension of time, an executed declaration and surcharge payment, and a request for a refund of the extension of time payment (premised on the granting of the request for re-mailing).

DISCUSSION

A. Request For Re-Mailing:

The Request For Re-Mailing asserts that applicants never received the Notification Of Missing Requirements mailed 12 February 2001. Section 711.03(c)II of the MPEP sets forth the requirements for such a petition:

The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Here, the Request For Re-Mailing contains the required statement from the practitioner that the Notification Of Missing Requirements was not received. However, it does not contain the additional required statement that "a search of the file jacket and docket records indicates that the [Notification Of Missing Requirements] was not received." As for the docket records requirement, applicants have attached a copy of their incoming mail-log for February. However, logs of incoming mail are not acceptable in satisfaction of the docket records requirement. Rather, applicants must provide a copy of their office docket for the date on which a response to the Notification Of Missing Requirements would have been required had the Notification been received (i.e., 12 March 2001).

Applicants have failed to satisfy all the requirements for a grantable petition. Accordingly, at the present time it cannot be concluded that applicants failed to receive the Notification Of Missing Requirements mailed 12 February 2001.

B. Request For Refund

Applicants' 10 August 2001 submission included a proper response to the Notification Of Missing Requirements, that is, an executed declaration in compliance with 37 CFR 1.497 and the

\$130 surcharge for filing the declaration after the thirty month deadline. The submission also included a request for a four-month extension of time to respond the Notification Of Missing Requirements, a \$1,390 payment for this extension of time, and the authorization to charge Deposit Account No. 03-1952 for any additional fees that were required. Because the response to the Notification Of Missing Requirements was due on 12 March 2001, applicants actually required a five month extension of time to render the 10 August 2001 submission timely. Accordingly, pursuant to the authorization contained in the request for extension of time, applicants have been charged the additional \$500 required for a five month extension of time. Based on this extension, the submission is considered timely.

As for applicants' Request For Refund, such request is premised on the granting of applicant's Request for Re-Mailing. Because, as set forth above, the Request For Re-Mailing cannot be granted at this time, the Request For Refund must also be dismissed. Should applicants submit a grantable renewed petition showing that the Notification of Missing Requirements was not received, the decision on the Request For Refund would also be reconsidered.

CONCLUSION

Applicants' "Request For Re-Mailing" and "Request For Refund" are **DISMISSED** without prejudice.

Deposit Account No. 03-1952 has been charged \$500 to bring applicants' payment for the extension of time to respond to the Notification Of Missing Requirements to the required total of \$1,890 (for a five month extension, 12 March 2001 through 12 August 2001).

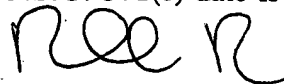
Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision, and must include the additional materials and statements discussed above that are necessary for a grantable petition to demonstrate the failure to receive an Office communication. Any further correspondence with respect to the dismissed requests should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

This application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing. The 35 U.S.C. 371(c) date is 10 August 2001.



Leonard Smith
PCT Legal Examiner
PCT Legal Office

RMR/LS:rmr



Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

Attachment: Copy of Notification Of Missing Requirements (Form PCT/DO/EO/905)

SERIAL NUMBER : _____

TO: Ram Processing

FROM: PCT LEGAL OFFICE
Crystal Plaza 2 7th Floor

PLEASE PROCESS THE FOLLOWING CORRECTIONS :

FROM			TO		
APPLICATION #	CODE	FEE	APPLICATION#	CODE	FEE
<u>09/744,594</u>	<u>118</u>	<u>1390</u>	<u>09/744,594</u>	<u>128</u>	<u>1,890</u>
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DA 03-1952

OTHER :

☐

CHARGE VOUCHER IS ATTACHED TO CHARGE / REFUND
ADDITIONAL FEES

☐

OTHER : _____

THE ORIGINAL METHOD OF PAYMENT WAS :

☐

BY A CHECK

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BY A CHARGE TO DEPOSIT ACCOUNT NO. _____